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Direct Dial Number

January 31, 1985

HAND DELIVERED

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Ms. Jeralene B. Green,
Freedom of Information Officer (A-101)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Re: Request for Information Under the
Freedom of Information Act

Dear Ms. Green:

On behalf of the Anchor Glass Container Corp., I request the information described below pursuant to the Freedom of Information Act, 5 U.S.C. §552, and 40 C.F.R. Part 2.

Anchor Glass Container Corp. (Anchor Glass), is defending an administrative order issued against 38 parties, including Midland Glass Company, Inc., the former owner of a facility now owned by Anchor Glass Container Corp. That order, which directs the clean-up of a hazardous waste disposal site in Perth Amboy, New Jersey, was issued by the Regional Administrator, U.S. EPA Region II. Anchor Glass has petitioned the agency to dismiss the order as against Midland Glass, and U.S. EPA has not yet acted on that petition. In order that Anchor Glass may evaluate the information on which the order is allegedly based and may assess whether there are legal defenses available to it that have not yet been asserted, we request that U.S. EPA make available to me the information described below.

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I. Definitions

A. The term "document" used herein means any letter, report, memorandum, contract, telephone log, note, briefing paper, chart, map, list, table or other conveyance of information in typed, handwritten, computerized, taped, telecopied, microfilmed or microfiched form.

B. The term "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.

C. The term "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq.

D. The term "the Order" means U.S. EPA Administrative Order No. II-CERCLA-50102, issued December 4, 1984, and Administrative Order No. II-CERCLA-50105, issued December 19, 1984.

E. The term "Duane Marine site" means the Duane Marine Salvage Corp. facility on Arthur Kill in Perth Amboy, New Jersey, which is the subject of the Order.

F. The term "possession of U.S. EPA" means in the custody of U.S. EPA or any entity acting as U.S. EPA's agent in connection with the clean-up of the Duane Marine site, or in the possession of another person who holds the documents at U.S. EPA's request.

II. Document Request

On behalf of Anchor Glass, I hereby request the following documents:

A. All documents that relate to the position of U.S. EPA that the Order imposes joint and several liability on the respondents. These documents include documents in which U.S. EPA personnel have discussed this issue and all documents that contain factual information that supports or refutes this position as a matter of law.

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B. All documents that contain information on which U.S. EPA based its conclusion that the Duane Marine site presents an emergency situation justifying issuance of an order under CERCLA §106.

C. All documents that identify what hazardous substances are present at the Duane Marine site.

D. All documents that identify the party or parties which sent material to the Duane Marine site.

E. All documents that relate to the finding by U.S. EPA that any respondent to the Order is not a responsible party as defined in CERCLA §107, or should be dismissed as a respondent to the Order for any other reason.

F. All documents that support the conclusion that there are currently materials at the Duane Marine site that were sent there by Midland Glass Company Inc.

In particular, but not by way of limitation, the documents we request are expected to include the following:

1. U.S. EPA memos discussing the Duane Marine site.
2. New Jersey Department of Environmental Protection waste manifests for shipments to and from the Duane Marine facility.
3. Correspondence between U.S. EPA and any agency of the State of New Jersey regarding the Duane Marine site.
4. Correspondence between U.S. EPA and any party who generated or handled any material sent to the Duane Marine site.
5. Responses to U.S. EPA requests for information relating to the Duane Marine site pursuant to CERCLA §104(e) or RCRA §3007.
6. Files of Duane Marine Salvage Corp. or Edward Lecarreux.

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7. Files of U.S. EPA relating to individual respondents to the Order, including those which U.S. EPA has dismissed as respondents or is considering dismissing as respondents.

8. Sampling and analytical data relating to the identity and hazard of materials found at the Duane Marine site.

9. Memoranda, notes or other documents relating to statements by Edward Lecarreux identifying which materials at the Duane Marine site were sent there by which parties.

10. Any and all other documents in the possession of U.S. EPA that meet the description in requests A-F above.

III. Logistical Matters

A. Location of Documents.

It is our understanding that the documents requested herein are principally located in U.S. EPA Region II, in the office of Regional Counsel under the custody of Margaret Thompson, and in the Emergency and Remedial Response Division under the custody of Janet Feldstein in New York and Bruce Sprague in Edison, New Jersey.

B. Copies.

The files we request are voluminous, and it is not our intention to request that a copy of each document be sent to me. Rather, we request the opportunity to review the documents at U.S. EPA at a mutually agreeable time and to select documents for copying from among those reviewed.

C. Withholding of Documents.

We request that, in the event U.S. EPA intends to withhold any document described in this request, U.S. EPA furnish a description of such document by title, author, addressee, date, length, summary of the document's contents and a statement of the legal basis upon which such document is withheld.

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D. Timing.

We request that U.S. EPA respond quickly to this request as required by the Freedom of Information Act and U.S. EPA's implementing regulations. I will be happy to expedite our review of the documents, and ask that flexible arrangements be made to allow us to review as great a proportion of the requested documents as soon as possible.

Yours very truly,



Jeffrey O. Cerar
Counsel for Anchor Glass
Container Corporation

JOC:cmm